

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FRASER McDONOUGH ROTCHFORD,

Petitioner,

v.

STATE: KING COUNTY PROS.,

Respondent.

Case No. C24-5569-RSL-MLP

REPORT AND RECOMMENDATION

Petitioner Fraser Rotchford is currently confined at the Washington State Penitentiary in Walla Walla, Washington. On July 11, 2024, Petitioner filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 in the United States District Court for the Eastern District of Washington. (Dkt. # 1.) Petitioner sought to challenge therein his term of confinement arising out of apparent convictions in Clallam County Superior Court and King County Superior Court. (*See id.*) Petitioner failed to submit with his petition either the requisite \$5.00 filing fee or an application to proceed with this action *in forma pauperis*. (*See* dkt. # 5.) On July 12, 2024, the Eastern District of Washington entered an Order transferring the action to this district. (*Id.*) Petitioner was advised in that Order that he should submit either his payment or a completed application to proceed *in forma pauperis* to this Court. (*Id.* at 2.)

REPORT AND RECOMMENDATION
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1 On July 16, 2024, after the case was opened in this district, the Clerk of this Court sent
2 Petitioner a letter explaining that his original submission was deficient because he had not
3 satisfied the filing fee requirement and advising that he would have to correct the deficiency not
4 later than August 15, 2024, or face dismissal of this action. (*See* dkt. # 8.) Petitioner thereafter
5 partially correct the deficiency by submitting an application to proceed *in forma pauperis*, but
6 the certification portion of the form was left blank, and Petitioner failed to submit with his
7 application a copy of his prison trust account statement. (*See* dkt. # 9.) On July 31, 2024, the
8 Clerk sent Petitioner another letter explaining that his submission remained deficient, and
9 advising that he would have to correct the deficiency not later than August 30, 2024, or face
10 dismissal of this action. (*See* dkt. # 10.) To date Petitioner has not responded in any fashion to
11 the Clerk's second deficiency letter.

12 As Petitioner has had ample time to either pay the filing fee for this action or submit a
13 completed application to proceed *in forma pauperis*, but has failed to do so, this Court
14 recommends that the instant action be dismissed without prejudice for failure to satisfy the filing
15 fee requirement. A proposed order accompanies this Report and Recommendation.

16 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
17 served upon all parties to this suit not later than **fourteen (14) days** from the date on which this
18 Report and Recommendation is signed. Failure to file objections within the specified time may
19 affect your right to appeal. Objections should be noted for consideration on the District Judge's
20 motions calendar **fourteen (14) days** from the date they are filed. Responses to objections may
21 be filed by **the day before the noting date**. If no timely objections are filed, the matter will be
22 ready for consideration by the District Judge on **November 8, 2024**.

1 DATED this 18th day of October, 2024.

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4 MICHELLE L. PETERSON
5 United States Magistrate Judge
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